

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DAVID J. GORMAN d/b/a	:	
CASHBACKREALTY.COM,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 00-1259 (JR)
	:	
AMERITRADE HOLDING CORPORATION,	:	
et al.,	:	
	:	
Defendants.	:	

**MEMORANDUM**

Plaintiff David J. Gorman is the sole proprietor of cashbackrealty.com, a real estate broker having its principal place of business in McLean, Virginia. He brings this breach of contract action against Ameritrade, a securities broker dealer licensed in the District of Columbia and having its principal place of business in Omaha, Nebraska, and freetrade.com, also a broker dealer in Omaha, but apparently an Internet domain name that is wholly owned by Ameritrade. Gorman alleges that he had a "reciprocal link agreement" with the previous owners of freetrade.com; that the agreement became binding upon Ameritrade when Ameritrade purchased the domain name; and that Ameritrade has failed and refused to honor its obligations. Defendants have moved to dismiss for failure to state a claim upon which relief can be granted; lack of personal jurisdiction; improper venue; and insufficiency of service of process. Because I have found

that the case must be dismissed for lack of personal jurisdiction or for insufficiency of service of process, or for both reasons, the other asserted grounds need not be considered.

Plaintiff is neither a citizen nor a resident of the District of Columbia. He does not allege that the "reciprocal link agreement" he seeks to enforce was entered into or was to be performed in the District of Columbia. He does not invoke the District's long-arm statute. The premises of his allegation of jurisdiction are (a) that Ameritrade is ubiquitous because it is "on" the Internet; (b) that D.C. Code § 13-334(a) provides for service on a foreign corporation doing business in the District by serving the agent of the corporation; and (c) that the Securities Director within the District of Columbia's Department of Insurance and Securities Regulation is Ameritrade's agent by operation of D.C. Code § 2-2615.

Applying for a securities license in the District of Columbia does not subject the applicant to personal jurisdiction for any kind of case, arising out of any kind of conduct, committed anywhere. Section 2-2615(f) limits the agency of the Securities Director to actions "which shall arise under this chapter, or any rule or order hereunder after the consent [appointing the Securities Director attorney-in-

fact to receive process] is filed." Gorman's action asserts a common law breach of contract claim. It does not arise under the District of Columbia's securities laws or regulations. Service upon the Securities Director, accordingly, was insufficient.

A company that acts to encourage or maximize the use by District of Columbia residents of its website does not establish the necessary "minimum contacts" with this forum through Internet accessibility. GTE New Media Services v. Bellsouth, 199 F.3d 1343, 1349 (D.C. Cir. 2000). Nor does a company that is only licensed for securities transactions and accessible via the Internet "operate so continuously and substantially within [the District] that it is fair to allow anyone to sue the enterprise in [the District] on any claim, without regard to where the claim arose." Crane v. Carr, 814 F.2d 758, 763 (D.C. Cir. 1987); Maroshek v. East Penn Trucking Co., 1992 WL 101621 (D.D.C. 1992).

The motion to dismiss will be granted. An appropriate order accompanies this memorandum.

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JAMES ROBERTSON  
United States District Judge

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